

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

THOMAS D. GILLIS,

Plaintiff

VS.

SPX CORPORATION INDIVIDUAL ACCOUNT  
RETIREMENT PLAN and SPX RETIREMENT  
ADMINSTRATIVE COMMITTEE,

## Defendants

Civil Action No.: 03-12389-GAO

**EMERGENCY MOTION TO STAY CONSIDERATION OF PENDING  
CROSS MOTIONS FOR SUMMARY JUDGMENT BECAUSE OF  
RECENTLY ENACTED PENSION LAW**

Pursuant to Local Rule 40.4, plaintiff Thomas D. Gillis (“Mr. Gillis”) hereby respectfully moves the Court on an emergency basis to temporarily stay its consideration of the presently pending cross motions for summary judgment.<sup>1</sup> Mr. Gillis states that a temporary stay of consideration of the motions is warranted in light of the recent enactment on August 17, 2006 of the Pension Protection Act of 2006, codified at 26 U.S.C. § 411(b)(5)(B)(ii)-(v) and § 4980F(e)(1). Mr. Gillis believes that this new law is highly relevant to a determination of the issues raised by the summary judgment motions. Mr. Gillis will file a Motion for Leave to File a Supplemental Summary Judgment Memorandum addressing the change in the law and its impact on the summary judgment issues by Tuesday, September 12, 2006. Mr. Gillis requests that the Court stay consideration of the summary judgment motions until the Court has considered Mr. Gillis’s Motion for Leave, and, if that motion is allowed, until the Court has had the opportunity

<sup>1</sup> The motions were filed on February 8, 2006, and oral argument was held on June 27, 2006. The motions have been under advisement since that time.

to consider Mr. Gillis's Supplemental Summary Judgment Memorandum addressing the change in the pension law.

Mr. Gillis has filed the present motion on an emergency basis because of the possibility that the Court might rule on the summary judgment motions prior to considering Mr. Gillis's Motion for Leave to File a Supplemental Summary Judgment Memorandum. Mr. Gillis requests that the Court consider the present motion on an expedited basis, as soon as possible.

Respectfully submitted,  
Plaintiff,

**THOMAS D. GILLIS**  
By his attorneys,

/s/ Michael P. Twohig  
Lawrence P. Murray BBO # 561835  
Evelyn A. Haralampu BBO # 221130  
Michael P. Twohig BBO # 648079  
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125 Summer Street  
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**CERTIFICATION PURSUANT TO LOCAL RULE 7.1**

I, Michael P. Twohig, counsel for plaintiff Thomas D. Gillis, hereby certify that I conferred with Andrew W. Vail, counsel for defendants, via telephone on September 7, 2006, regarding this motion. I further certify that the parties were unable to reach agreement with respect to the relief requested in this motion.

/s/Michael P. Twohig  
Michael P. Twohig

**CERTIFICATE OF SERVICE**

I hereby certify that a true copy of the above document was served upon the attorneys of record for each other party through the Court's electronic filing system on September 7, 2006.

/s/ Michael P. Twohig

Michael P. Twohig